101ST CONGRESS
1ST SESSION | HOUSE OF REPRESENTATIVES | REPT. 101-68
Part 1

MONTGOMERY GI BILL AMENDMENTS

MAY 25, 1989.—Ordered to be printed

Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 1358, which on March 9, 1989, was referred jointly to the Committees on Veterans' Affairs and Armed Services]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1358) to amend title 38, United States Code, with respect to the Montgomery G.I. Bill, and for other purposes, having considered the same, reports favorably thereon with amendments, by unanimous voice vote, and recommends that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 1, strike out line 4 and all that follows through line 8 on page 2 and insert in lieu thereof the following:

(a) MINIMUM REQUIREMENT FOR ACTIVE DUTY SERVICE.—(1) Section 1431 of title 38, United States Code, is amended—

(A) by adding at the end the following new subsection:

"(g) For purposes of subsection (a) of this section, an individual's last discharge or release from active duty shall not include any discharge or release from active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title"; and

(B) in subsection (a), by inserting "and subject to subsection (g)" before "of this section," in the material preceding clause (1).

(2) Section 1632(a) of such title is amended—

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(A) by adding at the end the following new paragraph:

"(4) For purposes of paragraph (1) of this subsection, a veteran's last discharge or release from active duty shall not include any discharge or release from active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title."; and

(B) in paragraph (1), by inserting "and subject to paragraph (4)" before "of this subsection,".

(3) Section 1662(a) of such title is amended—

(A) by adding at the end the following new paragraph:

"(4) for purposes of paragraph (1) of this subsection, a veteran's last discharge or release from active duty shall not include any discharge or release from active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service-connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title."; and

(B) in paragraph (1), by striking out "No" and inserting in lieu thereof "Subject to paragraph (4) of this subsection, no".

Page 2, line 15, strike out "which" and insert in lieu thereof "whom".

Page 4, line 13, strike out "For" and insert in lieu thereof "Except as provided in subparagraph (B) of this paragraph, for".

Page 15, line 21, insert "reasonable and necessary" after "for" the second place it occurs.

Page 15, line 25, insert "reasonable and necessary" before "expenses".

Page 16, strike out lines 15 through 20 and insert in lieu thereof the following:

(B) Section 1412(b)(2) is amended by striking out "Continuity of service" and all that follows through "such clauses" and inserting in lieu thereof "After an individual begins service in the Selected Reserve within one year after completion of the service described in clause (A)(i) or (B)(i) of subsection (a)(1) of this section, the continuity of service of such individual as a member of the Selected Reserve".

Page 18, insert the following after line 12:

(6) Section 1431(f) is amended by striking out ", under this section," in paragraphs (1) and (2) and inserting in lieu thereof ", under section 1413,".

Page 18, line 14, strike out "paragraph (1)" and insert in lieu thereof "paragraphs (1) and (6)".

INTRODUCTION

On March 9, 1989, H.R. 1358, a bill designed to enhance the effectiveness of the Montgomery GI Bill and other education programs administered by the Department of Veterans Affairs, was introduced by the Honorable Timothy J. Penny, Chairman of the Subcommittee on Education, Training and Employment, and was co-

sponsored by Subcommittee Members Christopher Smith, G.V. (Sonny) Montgomery, Bob Stump, Lane Evans and Tommy Robinson. Other cosponsors include Committee Members Don Edwards, Douglas Applegate, Harley Staggers, J. Roy Rowland, James Florio, Charles Stenholm, Claude Harris, Joseph Kennedy, Elizabeth Patterson, Tim Johnson, Jim Jontz, L.F. Payne, Bruce Morrison, George Sangmeister, Mike Parker, Ben Jones, Jill Long, John Paul Hammerschmidt, Chalmers P. Wylie, Bob McEwen, Dan Burton, Michael Bilirakis, Thomas Ridge, John Rowland, Robert Smith, Craig James, Cliff Stearns, and Bill Paxon. Additional cosponsors include Robert Dornan, Marvin Leath, W.G. (Bill) Hefner, Ed Jenkins, and Bill Richardson.

The Subcommittee held a hearing on April 6, 1989, to receive testimony on H.R. 1358. Witnesses at this hearing included: the Honorable G.V. (Sonny) Montgomery, chairman of the Full Committee; the Honorable Robert K. Dornan; Mr. R. J. Vogel, Chief Benefits Director, and Dr. Dennis R. Wyant, Director, Vocational Rehabilitation and Education Service, Department of Veterans Affairs; the Honorable Albert V. Conte, Deputy Assistant Secretary of Defense for Reserve Affairs, Department of Defense; LTG Allen K. Ono, Deputy Chief of Staff for Personnel, U.S. Army; RADM Francis R. Donovan, Assistant Deputy Chief of Naval Operations for Manpower, Personnel and Training, U.S. Navy; LGEN Thomas J. Hickey, Deputy Chief of Staff for Personnel, U.S. Air Force; BG James M. Myatt, Director, Manpower, Plans and Policy Division, U.S. Marine Corps; and RADM Thomas T. Matteson, Chief of Personnel and Training, U.S. Coast Guard. Additional witnesses included: MG William F. Ward, Chief, Army Reserve; RADM Thomas F. Hall, Deputy Director of Naval Reserve; MG Roger P. Scheer, Chief, Air Force Reserve; CAPT Robert G. Cozzolino, Deputy Chief for Reserve, Office of Readiness and Reserve, U.S. Coast Guard; LGEN Herbert R. Temple, Jr., Chief, National Guard Bureau; MG Donald Burdick, Director, Army National Guard; BG Phillip G. Killey, Director, Air National Guard; and representatives of The American Legion, Disabled American Veterans, Military Order of the Purple Heart, Paralyzed Veterans of America, Veterans of Foreign Wars, Association of the U.S. Army, Enlisted Association of the National Guard, Non-Commissioned Officers Association of the U.S.A., and the National Guard Association of the U.S.

The Subcommittee met on May 10, 1989, and voted unanimously to recommend H.R. 1358, as amended, to the Full Committee. On May 17, 1989, the Full Committee unanimously approved H.R. 1358, as amended, and ordered the bill reported to the House.

MAJOR PROVISIONS OF H.R. 1358, AS AMENDED

The reported bill would:

1. Provide that the 10-year delimiting date for use of educational assistance benefits under Chapters 30, 32, and 34 of title 38, United States Code, would commence from the last discharge from active duty of at least 90 continuous days. This limitation would apply only to such active duty period as may be served subsequent to completion of an individual's initial qualifying active duty period.

2. Provide that individuals eligible for benefits under Chapter 106, title 10, United States Code (Montgomery GI Bill-Selected Reserve) may pursue the same types of programs of education as those approved for Chapter 30, title 38, United States Code (Montgomery GI Bill-Active Duty).

3. Bar receipt of benefits for Chapter 32, title 38, United States Code, Veterans Educational Assistance Program, and Chapter 106, title 10, United States Code, based on the same period of service.

4. Permit Chapter 30 participants who first entered on active duty after June 30, 1985, to meet their secondary school diploma requirements by successfully completing the equivalent of 12 semester hours in a program of education leading to a standard college degree before the original ending date of the individual's initial obligated period of active duty.

5. Extend eligibility for Vietnam Era GI Bill benefits (Chapter 34, title 38, United States Code) to individuals who commenced their third academic year either as a cadet or midshipman at one of the service academies or as a member of the Senior Reserve Officer Training Corps (SROTC) in a program of educational assistance under section 2104 or 2107 of title 30, United States Code, retroactive to January 1, 1977. These individuals must have been separated after a period of at least 180 days active duty served pursuant to receiving a commission following service academy graduation or completion of advanced SROTC under other than dishonorable conditions.

6. Increase by 5 percent the rate of subsistence allowance for service-connected disabled veterans participating in rehabilitation programs under Chapter 31, title 38, United States Code.

7. Increase by 5 percent the rate of educational assistance allowance for survivors and dependents of service-connected disabled veterans pursuing a program of education under Chapter 35, title 38, United States Code.

8. Provide for the use of readjustment benefit account funds to carry out activities in connection with State Approving Agencies. This would include, but not be limited to, the development and implementation of a national training curriculum for State Approving Agency employees.

9. Make various technical and clerical amendments which would improve administration of education programs administered by the Department of Veterans Affairs.

Discussion of the bill

Clarification of Delimiting Period

Section 1 of the Committee bill would provide that the 10-year delimiting period for use of educational assistance benefits under the Montgomery GI Bill-Active Duty (Chapter 30, title 38, U.S.C.), VEAP (Chapter 32, title 38, U.S.C.), and the Vietnam Era GI Bill (Chapter 34, title 38, U.S.C.), would commence from the last discharge from active duty of at least 90 continuous days. This limitation would apply only to an active duty period served subsequent to completion of an individual's initial qualifying active duty period.

The fundamental purposes of educational assistance benefits are to assist in the readjustment of members of the Armed Forces to

civilian life after their separation from military service and to restore lost vocational and educational opportunities to these individuals. Accordingly, for the purpose of establishing eligibility under Chapter 30, Chapter 32 and Chapter 34, qualifying service requirements have been established relative to the initial period of active duty under which the individual establishes program eligibility. To accommodate the eligible individual who remains on active duty following completion of the initial qualifying period of service or who has more than one period of active duty, the 10-year delimiting period for use of education benefits is computed based on the last date of discharge or release from active duty. The purpose of this is to ensure that an individual's ability to use his or her benefits is not diminished as a result of continuing on active duty or reentering active duty.

It was brought to the attention of the Committee by the General Counsel of the Department of Veterans Affairs that under current law no minimum length of service is required in order to establish a new delimiting period based on a period of active duty which follows the initial qualifying active duty period. Although it would seem obvious that the intent of Congress was to provide a new delimiting period in the event that subsequent periods of active duty interfered with the ability of the eligible individual to pursue a course of education or training, the Committee has been informed that a few individuals have taken advantage of the broad statutory language and claimed a new 10-year delimiting date based on a return to active duty of no more than two or three days. Although a new delimiting period must currently be granted, based on the law as it is now written, the spirit of the law is certainly being violated.

Accordingly, the Committee proposes that there be established in the statute a minimum period of active duty which must be served in order to establish a new delimiting date based on service performed subsequent to the initial qualifying period of active duty. The Committee chose to require a minimum period of 90 days active duty. It should be pointed out that individuals discharged or released for a service-connected disability, for a non-service-connected medical condition which preexisted the period of military service, for hardship, or as a result of a reduction in force in certain circumstances would not be required to fulfill the 90 day active duty requirement.

Expansion of Programs Approved for Chapter 106

Section 2 of H.R. 1358, as amended, would permit those individuals training under Chapter 106, title 10, U.S.C. (Montgomery GI Bill-Selected Reserve) to pursue the same types of programs as those approved for active duty GI Bill participants (Chapter 30, title 38, U.S.C.). Under current law, only undergraduate courses at institutions of higher learning are approved for those participating in the Chapter 106 program. The Committee bill would expand programs of study to include training at technical schools, on-job training, correspondence and graduate-level training.

The Committee believes there are several reasons for lifting the current restriction on approved programs. First, as a matter of equity, active duty GI Bill participants and Selected Reserve par-

ticipants should have the same types of programs available to them under the Montgomery GI Bill. In order to be consistent with the Total Force Policy which underlies our national military strategy, educational opportunities should be consistent between both components of the Force.

Next, expanding the programs available to members of the Selected Reserve would increase the incentive value of the GI Bill as a recruiting and retention tool. If the Total Force is to be successful, the Reserve side of that Force must be able to attract and retain high quality personnel. The peacetime GI Bill has already proven to be a powerful recruitment tool for the Selected Reserve, and expanding the approved courses of study will make an excellent program even more effective. In his Fiscal Year 1988 Report to the Congress on the Montgomery GI Bill for Members of the Selected Reserve, the Honorable Stephen M. Duncan, Assistant Secretary of Defense for Reserve Affairs, characterized the Montgomery GI Bill as "a major recruiting incentive, especially for new, high quality enlisted personnel . . . " He noted that, when comparing the two-year period before the program's effective date to the two-year period FY 1987 and FY 1988, Selected Reserve accessions into six-year or greater terms increased from 58.4 percent of all enlistments to 64.8 percent. Additionally, he pointed out that the Sixth Quadrennial Review of Military Compensation, when comparing continuation rates for Montgomery GI Bill participants with non-participants found significantly higher continuation rates for the Montgomery GI Bill users. In his report, Secretary Duncan said, ". . . indicators are strong that a reduction in attrition follows from the commitment associated with participation in the Montgomery GI Bill-Reserve . . ." It is the Committee's view that if the programs of study approved are expanded for users of the Chapter 106 program, the program will be even more useful as a recruitment and retention tool.

Additionally, the Selected Reserve would benefit from an expansion in approved courses because many vital readiness skills require hands-on vocational training or advanced degree studies which are currently unavailable to members of the Reserves and National Guard under the Montgomery GI Bill. Training in skills such as those related to electronics, computers, and automotives would directly enhance the military capabilities of Reserve units.

Finally, individuals serving in the Selected Reserve would benefit personally if educational opportunities open to them were broadened. Not everyone wants or needs to pursue college-level training. In fact, projections for the year 2000 from the Department of Labor indicate some of the fastest-growing occupations are those that do not require a college diploma but do require vocational or technical training.

Clarification of Receipt of Benefits

Section 3 of the Committee bill would bar receipt of benefits for Chapter 32, title 38, U.S.C. (VEAP) and Chapter 106, title 10, U.S.C. (Montgomery GI Bill-Selected Reserve) based on the same period of service. The purpose of this provision is to correct an oversight in existing law which permits Chapter 32 and Chapter 106 entitlement duplication. The Committee notes that current law contains

similar restrictions. For example, an individual may not acquire entitlement for benefits under Chapter 30, title 38, U.S.C. (Montgomery GI Bill-Active Duty) and Chapter 106 based on the same period of service.

Secondary School Diploma Requirements

Section 4 of the bill would permit a Montgomery GI Bill-active duty participant who first entered on active duty after June 30, 1985, to meet his or her secondary school diploma requirements by successfully completing the equivalent of 12 semester hours in a program of education leading to a standard college degree before the original ending date of the individual's initial obligated period of active duty. Current law requires that an individual, before the completion of his or her initial obligated period of active duty, complete the requirements of a secondary school diploma or an equivalency certificate in order to establish eligibility for Chapter 30 benefits.

The Committee points out that Section 104 of Public Law 100–689, the Veterans' Benefits and Programs Improvement Act of 1988, provided that Chapter 30 participants whose entitlement is based in part on Chapter 34 eligibility could meet the secondary school diploma requirement by successfully completing the equivalent of 12 semester hours in a program of education leading to a standard college degree. Enactment of Section 4 of the Committee bill would give greater uniformity to these eligibility requirements.

Vietnam Era GI Bill Eligibility for Certain Service Academy Graduates

Section 5 of H.R. 1358, as amended, would extend eligibility for Vietnam Era GI Bill Benefits (Chapter 34, title 38, U.S.C.) to individuals who commenced their third academic year either as a cadet or midshipman at one of the service academies or as a member of the Senior Reserve Officer Training corps (SROTC) in a program of educational assistance under section 2104 or 2107 of title 10, U.S.C., retroactive to January 1, 1977. These individuals must have been separated after a period of at least 180 days active duty served pursuant to receiving a commission following service academy graduation or completion of advanced SROTC under other than dishonorable conditions.

Public Law 94–502, which established the Post-Vietnam Era Veterans Educational Assistance Program (VEAP), generally provided eligibility for this program to those entering on active duty on or after January 1, 1977. Participants in this program were required to make contributions to an education benefits account while on active duty in order to establish eligibility for the program. P.L. 94–502 also terminated the Vietnam Era GI Bill for individuals entering on active duty after December 31, 1976. Congress made an exception to this restriction and provided Chapter 34 eligibility for those who entered active duty after December 31, 1976, if they had previously contracted with the Armed Forces to enter on active duty and were enlisted in or assigned to a reserve component before January 1, 1977, and entered on active duty within 12 months after that date. However, 1977 and 1978 service-academy graduates and 1978 Senior Reserve Officer Training Corps (SROTC)

graduates were not considered to have met the above criteria and, accordingly, were restricted to participation in the VEAP program.

It is the Committee's view that because 1977 service-academy graduates entered into contracts in 1975 committing to enter on active duty and, similarly, 1978 service academy and SROTC graduates entered into contracts in 1976 committing to enter on active duty, equity requires that participation in Chapter 34 and the other special considerations included in this section should be accorded to these individuals.

It should also be pointed out that S. 2011, approved by the Senate in 1988, contained a provision similar to that in Section 5 of H.R. 1358. The Senate provision, however, restricted eligibility for the above-discussed options to individuals who elected to participate in VEAP. The House offered to accept the Senate provision if the restriction to VEAP participants were eliminated. It was the House view that equity demanded the opportunities provided under the Senate provision be available to all 1977 and 1978 service academy and 1978 SROTC graduates who generally met the eligibility requirements, not just those who chose to participate in VEAP. The other body refused to accept the House-offered compromise and, accordingly, no relief for these individuals was enacted.

Increase in Subsistence Allowance for Chapter 31 Participants and Educational Assistance Allowances for Survivors and Dependents Participating in Chapter 35

Section 6 of the Committee bill would increase by 5 percent the rate of subsistence allowance for service-connected disabled veterans participating in rehabilitation programs under Chapter 31, title 38, U.S.C., effective January 1, 1990. Section 7 of H.R. 1358 would increase by 5 percent the educational assistance allowance for survivors and dependents receiving benefits under Chapter 35, title 38, U.S.C. These benefits have not been increased since 1984 and, since that time, education costs have increased an average of 6 to 7 percent annually.

Although mindful of current budget constraints, the Committee believes these modest benefit increases are appropriate based on the unique responsibility and commitment we as a nation have to those disabled while serving their country in the Armed Forces and to the survivors and dependents of those individuals. The Committee also notes that the budget transmitted to Congress by President Reagan recommended these benefit increases and these increases are generally supported by the current Administration.

Use of Funds to Carry Out Activities in Connection with State Approving Agencies

Section 8 of H.R. 1358 would provide for the use of readjustment benefit account funds to carry out activities in connection with State Approving Agencies. This would include the development and implementation of a national training curriculum for State Approving Agency employees.

By way of background, section 1774A(a)(4) of title 38, U.S.C., as amended by Public Law 100-323, requires the Veterans' Administration to "cooperate with State approving agencies in developing and implementing a national curriculum, to the extent practicable,

for training new employees of such agencies, and sponsor, with the agencies, such training and continuation of training . . . " As expressed in a letter dated September 15, 1988, to the Chief Benefits Director of the Veterans Administration, from the Chairman of the Full Committee, the Honorable G.V. (Sonny) Montgomery, it was the intent of the Committee that funding for the development and implementation of the national curriculum should be derived from the monies made available for State Approving Agencies (SAAs). Nonetheless, the General Counsel of the Department of Veterans Affairs determined that readjustment benefit account funds could not be obligated for this purpose. Accordingly, the provisions of Section 8 clarify Congressional intent regarding this issue.

Technical and Clerical Amendments

Section 9 of the Committee bill would make various technical and clerical amendments which would improve administration of education programs administered by the Department of Veterans Affairs.

Section-by-Section Analysis of H.R. 1358

Section 1.—This provision of the bill would amend sections 1431, 1632, and 1662 of Chapters 30, 32, and 34 of title 38, United States Code, respectively, to provide that the 10-year delimiting period for using education benefits under such chapters would commence from the date of last discharge from active duty of at least 90 continuous days unless the individual involved was discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines was not service-connected, for hardship, or as a result of a reduction in force in certain circumstances.

As a special rule, section 1 would also amend section 1431(e) of title 38 to provide that the 10-year delimiting period of an individual whose Chapter 30 eligibility is based in part on his or her Chapter 34 entitlement will not be reduced by any period in 1977 before the individual began service on active duty due to his or her enlistment in the Delayed Entry Program.

Section 2.—This section would broaden section 2131(c)(1) of title 10 to permit those individuals going to school under Chapter 106 of that title to pursue the same types of programs of education as those approved for purposes of Chapter 30 of title 38.

This section would also add a new subsection to section 2131 to provide that educational assistance and entitlement charge therefor in the case of an individual pursuing a full-time program of apprenticeship or other on-the-job training shall be at the rate of 75 percent of the monthly educational assistance allowance otherwise payable for each of the first 6 months and a 75 percent of a month entitlement charge; 55 percent for each of the second 6 months, with a 55 percent of a month entitlement charge; and 35 percent for each of the months following the first 12 months of the individual's pursuit of such program, with a 35 percent of a month entitlement charge the therefore. In any month in which the individual fails to complete 120 hours of training, the allowance payable shall be in the same proportion as the number of hours worked during

the month (rounded to the nearest 8 hours) bears to 120 hours. The entitlement charged shall also be reduced proportionately in accordance with the reduction in payment.

The new subsection would, further, provide that educational assistance and entitlement charge therefore in the case of an individual pursuing a cooperative program shall be at the rate of 80 percent of the monthly educational assistance allowance otherwise payable to such individual under Chapter 106, with 80 percent of a month entitlement charge.

Pursuit of a program of correspondence training would be allowed by this section at a rate of 55 percent of the established charges, paid quarterly on a pro rata basis for the lessons completed and serviced. One month of entitlement would be charged for correspondence training for each $140 paid to such individual as an educational assistance allowance under this chapter.

Section 2136(b) would be amended to conform the list of provisions applicable to administration of the program with the provisions of this measure which expand the scope of educational pursuit for which assistance may be provided under Chapter 106.

Section 3.—Section 3 would add a new subsection to section 1621 of title 38 which would bar receipt of benefits for Chapter 32 of title 38 and Chapter 106 of title 10 based on the same period of service.

Section 4.—Section 4 would broaden sections 1411(a)(2) and 1412(a)(2) of title 38 to permit those Chapter 30 participants who first entered active duty after June 30, 1985, to meet their secondary school diploma requirements by successfully completing the equivalent of 12-semester hours in a program of education leading to a standard college degree if the degree credits are earned before completion of the individual's initial obligated period of active duty.

Section 5.—Section 5 would amend section 1652(a) of title 38 to extend eligibility for noncontributory GI Bill (Chapter 34) education benefits to an individual who had commenced his or her third academic year either as a cadet or midshipman at one of the service academies (United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy) or as a member of the Senior Reserve Officer Training Corps (SROTC) in a program of educational assistance under section 2104 or 2107 of title 10, United States Code, retroactive to January 1, 1977. The individual must have been separated after a period of at least 180 days active duty served pursuant to receiving a commission following service academy graduation or completion of advanced SROTC under other than dishonorable conditions. The individual must, further, make an irrevocable election to be eligible for educational assistance under Chapter 34 and, if enrolled under the Chapter 32 program of assistance, must be disenrolled from that Chapter 32 program. As a conforming amendment, this section would add these individuals to those eligible veterans listed in subsection 1652(a)(2) for whom the requirements of discharge or release shall be waived if they have served more than 180 days in an active-duty status and continue to serve on active duty.

Upon receipt of the individual's election to receive Chapter 34 eligibility, the Secretary of Veterans Affairs is required to refund to that individual any amount of unused contributions to the Post-Vietnam Era Veterans Education Account (VEAP) within 60 days. Further, if the individual has received educational assistance under Chapter 32, the Secretary shall pay the individual concerned any additional amount due under Chapter 34 in excess of the amount received under Chapter 32. Finally, the Secretary of Veterans Affairs is required to refund to the Secretary of Defense any amount contributed by the Defense Department to the VEAP Account on behalf of such individual.

Section 6.—Section 6 would amend present section 1508(b) of title 38, relating to rates of subsistence allowances for service-connected disabled veterans participating in rehabilitation programs under Chapter 31 of title 38, to increase by 5 percent, effective January 1, 1990, the rates of such allowances. For example, the $452 monthly subsistence allowance paid to a veteran who has a spouse and one child and is pursuing a full-time program of institutional training would be increased to $475.

Section 7.—Section 7 would amend Chapter 35 of title 38, relating to Survivors' and Dependents' Educational Assistance, to increase by 5 percent the rates of educational assistance, effective January 1, 1990. A spouse or surviving spouse pursuing a program of education exclusively by correspondence would be charged 1 month of entitlement for each $395 of educational assistance allowance paid for such pursuit.

Section 8.—Section 8 would amend section 1774(a) of title 38 to provide for the use of Readjustment Benefit Account funds to carry out activities in connection with State approving agencies pursuant to section 1774A of that title. This would include, but not be limited to, the development and implementation of a national training curriculum for State approving agency employees.

Section 9.—Section 9 contains various technical amendments to title 38 to clarify Congressional intent. These amendments include a change to amend section 1412 of Chapter 30 to provide that a "2 x 4" participant under that chapter would have 1 year following separation from the requisite active duty period within which to start the 4-year continuous Selected Reserve service portion of the program. Other amendments included would correct certain cross-references in the provisions for calculating Chapter 30 entitlement; add a provision clarifying the computation of entitlement for certain individuals who enroll in Chapter 30 during the "open period"; update a citation to refer to Chapter 109 of title 10; clarify that the reference to technological advances in employment for which refresher training may be pursued under Chapters 30 and 32 is to advances during and since the period of the veteran's service on active duty; include the Omnibus Diplomatic Security and Anti-terrorism Act of 1986 (Public Law 99-399) among the statutory provisions under which an individual may not concurrently receive education benefits administered by the VA nor, in combination therewith, use more than 48 months of entitlement; and clarify that the individual's entitlement, not delimiting period, under Chapter 30 may be extended to either the end of a quarter or semester, when entitlement expires during such period at an educa-

tional institution regularly operated on the quarter or semester system, or the end of the course (or 12 weeks, if the lesser period), when entitlement would expire after completion of the majority of a course operated on a different basis.

Oversight Findings

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

Budget Statement

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill.

U.S. Congress,
Congressional Budget Office,
Washington, D.C., May 23, 1989.

Hon. G.V. (Sonny) Montgomery, *Chairman,*
Committee on Veterans' Affairs,
U.S. House of Representatives,
Washington, D.C. 20515

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 1358, a bill to expand Montgomery GI Bill benefits, increase subsistence allowances for vocational rehabilitation programs, increase education assistance rates for survivors and dependents, and for other purposes, as ordered reported by the Committee on Veterans' Affairs, May 17, 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer,
Director.

cc: Hon. Bob Stump
Ranking Minority Member

Congressional Budget Office Cost Estimate

1. Bill number: H.R. 1358
2. Bill title: None.
3. Bill status: As ordered reported by the House Committee on Veterans' Affairs, May 17, 1989.
4. Bill purpose: To expand Montgomery GI Bill reservists' benefits, increase subsistence allowances for vocational rehabilitation programs, increase education assistance rates for survivors and dependents, and for other purposes.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1990	1991	1992	1993	1994
Function 050					
Budget authority	133	38	38	39	39
Outlays	133	38	38	39	39

	1990	1991	1992	1993	1994
Function 700					
Budget authority	9	13	14	14	12
Outlays	−83	19	19	18	17
Total					
Budget authority	142	51	52	53	51
Outlays	50	57	57	57	56

Basis of Estimate—Those provisions in the bill which have a significant cost impact on the Federal Government or could potentially have a significant impact are discussed below. The assumed enactment date for this bill is October 1, 1989.

SECTION 2. Section 2 would expand reservists' benefits to include all educational programs offered to active service personnel. This provision of the bill would be effective October 1, 1989.

[By fiscal years, in millions of dollars]

	1990	1991	1992	1993	1994
Function 050					
DOD contribution to the Educational Benefits Fund					
Budget authority	133	38	38	39	39
Outlays	133	38	38	39	39
Function 700					
Educational Benefits Fund					
Budget authority	136	44	45	46	45
Outlays	44	50	50	50	50
DOD offsetting receipts					
Budget authority	−133	−38	−38	−39	−39
Outlays	−133	−38	−38	−39	−39
Total					
Budget authority	136	44	45	46	45
Outlays	44	50	50	50	50

Under current law reservists may not use their Montgomery GI Bill (MGIB) benefits to participate in graduate study or vocational, technical, or correspondence training. This bill would allow them these opportunities. As a result of this provision, it is estimated that training expenses for the reserve portion of the MGIB would increase 40 percent above baseline, or $44 million in 1990. Estimated baseline spending for reservists in 1990 is about $110 million. This estimate is based on a model which uses information from the 1986 Reserve Components Survey and program data from the Defense Manpower Data Center. It is assumed that average benefits for new trainees would be equal to those currently receiving benefits.

The Department of Defense (DOD) would fund reserve benefits on an accrual basis. The accrual charge of $133 million in 1990 takes into account the additional training expected by the current reservists who would be eligible for these expanded benefits. The smaller accrual charges of $38 million to $39 million in 1991 through 1994 reflect the additional training expected by the groups of reservists who become eligible for the MGIB in each of those years. The budget authority for the Education Benefits Fund is the

sum of contributions from DOD and interest earned on the contributions to the fund.

SECTION 5. Section 5 would allow 1977 and 1978 graduates of the service academies and 1978 Reserve Officer Training Corps graduates to become eligible for benefits under the education assistance program in Chapter 34 of title 38, U.S.C. Under current law they are eligible to participate in the Chapter 32 program in title 38, U.S.C. To become eligible a person must notify the Secretary of Veterans Affairs of his desire to switch eligibility before January 1, 1999. Once the change in eligibility has been made, a person would receive a refund of any remaining contributions made to the Chapter 32 program and a reimbursement for the difference between Chapter 34 training rates of reimbursement and Chapter 32 rates of reimbursement for any training that has occurred.

It is assumed that the cost of this provision would be less than $500,000. Costs could occur as a result of two factors: new training under the Chapter 34 program and reimbursements for the difference between Chapter 34 and Chapter 32 training rates. Based on information from the Department of Veterans Affairs (VA), there are approximately 11,700 people who would be eligible to make this election. About 2,100 of these people have made contributions to the Chapter 32 program (and as a result are eligible to use Chapter 32 benefits) and about 500 of them have already used some benefits. The people who are not eligible to use Chapter 32 benefits could still make this switch and train under the Chapter 34 program, although only until December 31, 1989 when the Chapter 34 program expires. If they all went to school full-time for the three months between the assumed enactment date of October 1, 1989 and December 31, 1989, costs could be about $10 million. However, we assume this would not be a significant occurrence given the limited time they would have to use the benefits; the time within which they would have to make the decision to go to school; and the fact that they are all already college graduates and have not expressed an interest in further education (through non-participation in the Chapter 32 program). For those still eligible for Chapter 32 benefits, it is not likely that anyone who plans to go to school after December 31, 1989 would switch to Chapter 34 eligibility. Those who have the most to gain from this option would have used benefits and used them as full-time students. If they used them as full-time students, they would probably no longer be in active service. They may not become aware of their option to make this switch within the relatively short amount of time they would have to do it. Even if they do become aware of the option, they may not notify the VA by January 1, 1990. It is assumed that costs as a result of these people would not be significant either.

SECTION 6. Section 6 would increase the rate of rehabilitation subsistence allowances for veterans with service-connected disabilities by 5 percent. This increase would become effective January 1, 1990.

[By fiscal years, in millions of dollars]

	1990	1991	1992	1993	1994
Function 700					
Budget authority	2	3	3	3	3
Outlays	2	3	3	3	3

Based on information from the VA, the subsistence portion of the average vocational rehabilitation benefit is approximately 55 percent. The estimate above is an increase of 5 percent for 55 percent of the baseline average benefit for vocational rehabilitation assistance. This would mean an average annual benefit increase for approximately 23,000 recipients of about $95 in 1990, when the provision is effective for three quarters of the year, and $130 in 1991 rising to $135 by 1994.

SECTION 7. Section 7 would increase, by 5 percent, the rates of educational assistance for survivors and dependents who are eligible for education benefits under Chapter 35 of title 38, U.S.C.

[By fiscal years, in millions of dollars]

	1990	1991	1992	1993	1994
Function 700					
Budget authority	4	4	4	4	3
Outlays	4	4	4	4	3

The estimate above is based on a 5-percent increase in average benefits for survivors and dependents. Approximately 4,000 survivors would receive an average benefit increase of about $75 in 1990 when the provision would be effective for three quarters of the year and about $95 in 1991. By 1994 about 3,000 survivors would receive an average benefit increase of $95. Dependents are more numerous and receive slightly higher average benefits than survivors. In 1990 approximately 35,000 would receive an average increase of $90. In 1991 about 32,000 would receive an average increase of $120 and by 1994 about 26,000 would receive about the same increase.

6. Estimated cost to State and local governments: None.
7. Estimated comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Richard Curley (226–2820).
10. Estimate approved by:

C.G. NUCKOLS,

(For James L. Blum, Assistant Director for Budget Analysis.)

INFLATIONARY IMPACT STATEMENT

The reported bill will have no inflationary impact in fiscal year 1990.

DEPARTMENTAL VIEWS

The Committee received the following letters from the Department of Veterans Affairs and the Department of Defense on H.R. 1358.

DEPARTMENT OF VETERANS AFFAIRS,
OFFICE OF THE SECRETARY OF VETERANS AFFAIRS,
Washington, D.C., May 9, 1989.

Hon. G.V. Montgomery, *Chairman,*
Committee on Veterans Affairs,
U.S. House of Representatives,
Washington, D.C. 20515

DEAR MR. CHAIRMAN: I am pleased to respond to your request for the view of the Department of Veterans Affairs (VA) and our estimate of costs concerning H.R. 1358, a bill "To amend title 38, United States Code, with respect to the Montgomery G.I. Bill, and for other purposes."

This measure proposes amendments affecting the various education benefit programs for eligible veterans and other eligible persons administered by the VA, as well as our Chapter 31 vocational rehabilitation program. While the VA agrees with several of these amendments, we do not support other provisions of H.R. 1358 in its present form.

Section 1 of the bill would provide that the 10-year delimiting period for using education benefits under Chapters 30, 32, and 34 of title 38, United State Code, would commence from the date of last discharge from active duty of at least 90 continuous days.

Under current law, an individual's basic eligibility to use VA educational assistance benefits expires at the end of the 10-year period beginning on the date of such individual's last discharge or release from active duty. This clearly was intended to accommodate an individual who, for example, due to recall, reenlistment, or extension, serves a regular, full-time active duty tour beyond the individual's initial obligated period. It assures that such individual's benefits and right to use them are not diminished as a result of remaining on or reentering active duty. Thus, the individual retains the full 10-year opportunity to use his or her earned readjustment benefits.

Unfortunately, some persons have taken advantage of the breadth of the existing statutory delimiting date language to receive more than one full 10-year eligibility period. We note, for example, an instance in which a reservist, following expiration of his original delimiting period, voluntarily served on Active Duty in AGR status for brief periods (e.g., weekends) and claimed a new 10-year delimiting period based on his last discharge from such service. The plain language of the statute permitted this, though we believe that Congress surely could not have intended such a result.

Certainly, a more substantial period of service would be necessary to cause the type of disruption to civilian life which would merit a new, full eligibility period, consistent with the law's readjustment purposes. Accordingly, the VA agrees with the intent of this proposal to require that the last discharge or release referenced be from a period of active duty of at least 90 continuous days.

We note that, as drafted, section 1 inadvertently would subject a veteran's initial qualifying period of active duty to the 90-day minimum service requirement. We suggest that the language of this section be revised to limit application of that requirement to only such active duty period as may be served subsequent to completion of the individual's initial qualifying active duty period. With such change, we would support this amendment.

Section 2 of this measure would provide that individuals eligible for benefits under Chapter 106 of title 10, the Montgomery GI Bill—Selected Reserve, may pursue the same types of programs as those approved for Chapter 30 of title 38, the Montgomery GI Bill-Active Duty. The VA defers to the views of the Department of Defense, which has jurisdiction over the Chapter 106 program, with regard to this section of H.R. 1358.

Section 3 would bar receipt of benefits for Chapter 32 of title 38 and Chapter 106 of title 10 based on the same period of service. We note that this provision is similar to the prohibition in existing law against an individual's acquiring entitlement both to Chapter 30 and Chapter 106 education benefits based on the same period of military service. We believe it was merely an oversight to permit the Chapter 32/Chapter 106 entitlement duplication, and support this proposed correction as reflecting an appropriate and uniform legislative policy in this area.

With regard to section 4 of this measure, we note that Public Law 100-689, enacted last November, made some changes to the Chapter 30 secondary school diploma requirement, among which was that those Chapter 30 participants whose entitlement is based in part on Chapter 34, eligibility could, as an alternative to meeting that requirement, successfully complete the equivalent of 12 semester hours in a program of education leading to a standard college degree. Section 4 of the pending measure would permit those Chapter 30 participants who first entered active duty after June 30, 1985, to meet their secondary school diploma requirements in a similar manner if the degree credits are earned before completion of the individual's initial obligated period of active duty. We have no objection to this change which gives greater uniformity to these eligibility requirements.

Section 5 would extend eligibility for noncontributory GI Bill (Chapter 34) eduction benefits to an individual who had commenced his or her third academic year either as a cadet or midshipman at one of the service academies or as a member of the Senior Reserve Officer Training Corps (SROTC) in a program of educational assistance under section 2104 or 2107 of title 10, United States Code, retroactive to January 1, 1977. The individual must have been separated after a period of at least 180 days active duty served pursuant to receiving a commission following service academy graduation or completion of advanced SROTC under other than dishonorable conditions.

The VA does not support this provision. Although we recognize that an inequity has existed between those 1977 service academy graduates who were barred from receiving Chapter 34 education benefits and those members of the SROTC who received a full scholarship and yet qualified for the noncontributory GI Bill, we do not believe it is appropriate now to amend the basic eligibility re-

quirements for a program which expires at the end of this year. Furthermore, the current Montgomery GI Bill program has set a precedent by precluding service academy graduates from receiving additional educational benefits altogether. For these reasons, we do not support the retroactive expansion of Chapter 34 benefits.

Sections 6 and 7 of H.R. 1358 would increase by 5 percent both the rates of subsistence allowances for service-connected disabled veterans participating in rehabilitation programs under Chapter 31 of title 38, and of educational assistance allowances for survivors and dependents under Chapter 35 of title 38, respectively. The increases would be effective January 1, 1990.

We support the proposed rate increase for these benefits in the context of the overall budget negotiations. These allowances were last increased in 1984, and since then education costs have risen an average of 6 to 7 percent a year. We estimate the increased benefits would cost $5.2 million in FY 1990.

Section 8 of the proposal would amend section 1774(a) of title 38 to provide for the use of readjustment benefit account funds to carry out activities in connection with State approving agencies pursuant to section 1774A of that title. This would include, but not be limited to, the development and implementation of a national training curriculum for State approving agency employees.

We note the proposal does not limit VA payment to the "reasonable and necessary" expenses of carrying out the provisions of section 1774A. Subject to the inclusion of such qualifying language, we would support this proposal. It would help ensure that State employees would receive appropriate training to develop their employment skills, an intent clearly evinced by Congress in enacting the Public Law 100–323 provision for establishing a national training program. This amendment would clarify our authority to use readjustment benefit funds for the purposes intended.

Section 9 would make various technical and clerical amendments. We believe that these would improve administration of our education programs and, therefore, with the one exception noted below, support such amendments.

Subsection 9(a)(1) of the bill would amend section 1412 of Chapter 30 to provide that a "2 x 4" participant under that chapter would have 1 year following separation from the requisite active duty period within which to start the 4-year continuous Selected Reserve service portion of the program. We suggest that this provision needs to clarify that individuals must enter a Selected Reserve unit within such 1-year period, not merely contract to do so. With such clarification, the VA would support this amendment.

We estimate that, with the exception of sections 2, 6 and 7, enactment of S. 1358 would result in insignificant benefit costs (i.e., less that $1 million) and insignificant administrative costs (i.e., less than $100,000) for fiscal year 1990 and for each of the first 5 fiscal years.

As previously mentioned, section 2 of the bill would expand the educational assistance programs which may be pursued under Chapter 106 of title 10. Since the Chapter 106 program is funded by the Departments of Defense (DOD) and Transportation (DOT), there would be no benefit cost to the VA as a result of enactment of this proposed expansion. Benefit cost information for the pro-

gram is developed by DOD actuaries and, therefore, would have to be furnished by them. Moreover, lacking an estimate of the number of new trainees that would enter into the Chapter 106 program as a result of this proposal, the VA is unable at this time to provide an estimate of this section's administrative costs.

With regard to sections 6 and 7, we estimate that the 5-percent rate increases for Chapter 31 subsistence and Chapter 35 survivors' and dependents' educational assistance allowances would result in benefit costs of $5.2 million for Fiscal Year 1990, and $33 million for the first 5 fiscal years.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report on H.R. 1358 to the Congress.

Sincerely,

EDWARD J. DERWINSKI,
Secretary.

DEPARTMENT OF DEFENSE,
OFFICE OF GENERAL COUNSEL,
Washington, D.C., May 10, 1989.

Hon. G.V. (Sonny) Montgomery, *Chairman,*
House of Representatives,
Committee on Veterans Affairs,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Defense on H.R. 1358, 101st Congress, a bill "To amend title 38, United States Code, with respect to the Montgomery GI Bill, and for other purposes."

H.R. 1358 would amend titles 38, and 10, United States Code, so that vocational training and graduate schools would become an entitlement for Selected Reservists under the Montgomery GI Bill (MGIB), educational and subsistence allowance of certain survivors and dependents would be increased, and certain improvements would be made in the administration of the MGIB for the Active and Reserve components.

The bill consists primarily of technical amendments of interest to the Veterans Administration. However, one section explicitly affects the Department of Defense. Section 2 would provide that individuals eligible for benefits under Chapter 106, title 10, United States Code, (Reserve MGIB), may pursue the same sorts of programs as those approved for Chapter 30, title 38, United States Code (Active component MGIB).

The Department of Defense supports the provisions of H.R. 1358 with the exception of section 2 and section 5. The Department has previously reported to Congress that expansion of the MGIB for the Reserve components without additional appropriations is untenable in view of other, more critical needs of the Reserves. The Administration does not support section 5.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to this report from the standpoint of Administration policy.

Sincerely,

ROBERT L. GILLIAT,
(FOR) L. NIEDERLEHNER,
Deputy General Counsel.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as H.R. 1358 reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * * * *

CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

* * * * * * *

Subchapter II—Basic Educational Assistance

§ 1411. Basic educational assistance entitlement for service on active duty

(a) Except as provided in subsection (c) of this section, each individual—

(1) * * *

(2) who completed the requirements of a secondary school diploma (or equivalency certificate) not later than—

(A) the original ending date of the individual's initial obligated period of active duty in the case of an individual described in clause (1)(A) of this subsection, regardless of whether the individual is discharged or released from active duty on such date; or

(B) December 31, 1989, in the case of an individual described in clause (1)(B) of this subsection;

except that *(i)* an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree, *and (ii) an individual described in clause (1)(A) of this subsection may meet such requirement by having successfully completed the equivalent of such 12 semester hours before the end of the individual's initial obligated period of active duty*; and

* * * * * * *

§ 1412. Basic educational assistance entitlement for service in the Selected Reserve

(a) Except as provided in subsection (d) of this section, each individual—

(1) who—

(A) after June 30, 1985, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

(i) serves, as the individual's initial obligated period of active duty, at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

(ii) subject to subsection (b) of this section [and after completion] *and beginning within one year after completion* of the service on active duty described in subclause (i) of this clause, serves at least four years of continuous duty in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned; or

(B) as of December 31, 1989, is eligible for educational assistance under chapter 34 of this title and was on active duty on October 19, 1984, and without a break in service since October 19, 1984, and—

(i) after June 30, 1985, serves at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

(ii) after June 30, 1985, subject to subsection (b) of this section [and after completion] *and beginning within one year after completion* of such two years of service, serves at least four continuous years in the Selected Reserve during which the individual participates satisfactorily in training as prescribed by the Secretary concerned;

(2) who, before completion of the service described in clause (1) of this subsection, has completed the requirements of a secondary school diploma (or an equivalency certificate), except that *(i)* an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree, *and (ii) an individual described in clause (1)(A) of this subsection may meet such requirement by having successfully completed the equivalent of such 12 semesters hours before the end of the individual's initial obligated period of active duty*; and

* * * * * * *

(b)(1) * * *

(2) [Continuity of service of a member in the Selected Reserve for purposes of such clauses] *After an individual begins service in the Selected Reserve within one year after completion of the service described in clause (A)(i) or (B)(i) of subsection (a)(1) of this section, the continuity of service of such individual as a member of the Selected Reserve* shall not be considered to be broken—

* * * * * * *

§ 1413. Duration of basic educational assistance

(a)(1) * * *

(2) Subject to section 1795 of this title and subsection [(c)] *(d)* of this section, in the case of an individual described in section 1411(a)(1)(A)(ii)(I) or (III) of this title who is not also described in section 1411(a)(1)(A)(i) of this title or an individual described in section 1411(a)(1)(B)(ii)(I) or (III) of this title who is not also described in section 1411(a)(1)(B)(i) of this title, the individual is entitled to one month of educational assistance benefits under this chapter for each month of continuous active duty served by such individual after June 30, 1985, as part of the individual's initial obligated period of active duty in the case of an individual described in section [1411(a)(1)(B)(ii)(I)] *1411(a)(1)(A)(ii)(I)* or (III) of this title, or in the case of an individual described in section 1411(a)(1)(B)(ii)(I) or (III) of this title, after June 30, 1985.

(b) Subject to section 1795 of this title and subsection [(c)] *(d)* of this section, each individual entitled to basic educational assistance under section 1412 of this title is entitled to (1) one month of educational assistance benefits under this chapter for each month of continuous active duty served by such individual after June 30, 1985, as part of the individual's initial obligated period of active duty in the case of an individual described in section 1412(a)(1)(A) of this title, or in the case of an individual described in section 1412(a)(1)(B) of this title, after June 30, 1985, and (2) one month of educational assistance benefits under this chapter for each four months served by such individual in the Selected Reserve after the applicable date specified in clause (1) of this subsection (other than any month in which the individual served on active duty).

(c)(1) Subject to section 1795 of this title and except as provided in [paragraph (2)] *paragraphs (2) and (3)* of this subsection, each individual entitled to basic educational assistance under section 1418 of this title is entitled to 36 months of educational assistance under this chapter (or the equivalent thereof in part-time educational assistance).

* * * * * * *

(3) Subject to section 1795 of this title and subsection (d) of this section, an individual described in clause (B) or (C)(ii) of section 1418(b)(3) of this title (other than an individual described in paragraph (2) of this subsection) is entitled to the number of months of educational assistance under this chapter that is equal to the number of months the individual has served on continuous active duty after June 30, 1985.

* * * * * * *

Subchapter IV—Time Limitation for Use of Eligibility and Entitlement; General and Administrative Provisions

§ 1431. Time limitation for use of eligibility and entitlement

(a) Except as provided in subsections (b) through (e) *and subject to subsection (g)* of this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 10-year

period beginning on the date of such individual's last discharge or release from active duty, except that such 10-year period shall begin—

* * * * * * *

[(e) In] *(e)(1) Except as provided in paragraph (2), in* the case of an individual described in section 1411(a)(1)(B) or 1412(a)(1)(B) of this title who is entitled to basic educational assistance under this chapter, the 10-year period prescribed in subsection (a) of this section shall be reduced by an amount of time equal to the amount of time that such individual was not serving on active duty during the period beginning on January 1, 1977, and ending on October 18, 1984.

(2) In the case of an individual to whom paragraph (1) is applicable and who is described in section 1652(a)(1)(B), the 10-year period prescribed in subsection (a) of this section shall not be reduced by any period in 1977 before the individual began serving on active duty.

(f)(1) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would [, under this section,], *under section 1413,* expire during a quarter or semester, such period shall be extended to the end of such quarter or semester.

(2) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would [, under this section,], *under section 1413,* expire after a major portion of the course is completed, such period shall be extended to the end of the course or for 12 weeks, whichever is the lesser period of extension.

(g) For purposes of subsection (a) of this section, an individual's last discharge or release from active duty shall not include any discharge or release from active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title.

§ 1433. Bar to duplication of educational assistance benefits

(a) * * *

(b) A period of service counted for purposes of repayment under [section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note),] *Chapter 109 of title 10* of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

* * * * * * *

§ 1434. Program administration

(a)(1) * * *

* * * * * * *

(3) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified", and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of [employment)] *employment during and since the period of such veteran's active military service),* deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education.

* * * * * * *

CHAPTER 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

* * * * * * *

§ 1508. Allowances

(a) * * *

(b) Except as otherwise provided in this section, the Administrator shall determine the subsistence allowance to be paid to a veteran under this chapter in accordance with the following table, which shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of program being pursued as specified in column I:

[Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$310	$384	$452	$33
Three-quarter time	233	288	339	25
Half-time	155	193	227	17
Farm cooperative, apprentice, or other on-job training:				
Full-time	271	327	377	24
Extended evaluation:				
Full-time	310	384	452	33
Independent living training:				
Full-time	310	384	452	33
Three-quarter time	233	288	339	25
Half-time	155	193	227	17]

Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$326	$403	$475	$35
Three-quarter time	245	302	356	26
Half-time	163	202	238	18
Farm cooperative, apprentice, or other on-job training:				
Full-time	285	343	396	25
Extended evaluation:				
Full-time	326	403	475	35
Independent living training:				
Full-time	326	403	475	35
Three-quarter time	245	302	356	26
Half-time	163	202	238	18

* * * * * * *

CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

* * * * * * *

Subchapter II—Eligibility; Contributions; and Matching Fund

§ 1621. Eligibility

(a) * * *

* * * * * * *

(f) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by this chapter and the program established by chapter 106 of title 10 but shall elect (in such form and manner as the Secretary of Veterans Affairs may prescribe) the program to which such service is to be credited.

* * * * * * *

Subchapter III—Entitlement; Duration

* * * * * * *

§ 1632. Duration; limitations

(a)(1) Except as provided in paragraphs (2) and (3) *and subject to paragraph (4)* of this subsection, educational assistance benefits shall not be afforded an eligible veteran under this chapter more than 10 years after the date of such veteran's last discharge or release from active duty *of at least 90 days of continuous service.*

* * * * * * *

(4) For purposes of paragraph (1) of this subsection, a veteran's last discharge or release from active duty shall not include any discharge or release from active duty of less than 90 days of continuous service unless the individual involved is discharged or released for

a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title.

* * * * * * *

Subchapter IV—Administration

§ 1641. Requirements

(a)(1) * * *

(2) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified", and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occured in the individual's field of **[**employment)**]** *employment during and since the period of such veteran's active military service)* deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education.

* * * * * * *

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

* * * * * * *

Subchapter I—Purpose; Definitions

* * * * * * *

§ 1652. Definitions

For the purposes of this chapter and chapter 36 of this title—

(a)(1) The term "eligible veteran" means any veteran who—

(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and before January 1, 1977, and was discharged or released therefrom under conditions other than dishonorable; **[**or**]**

(B) contracted with the Armed Forces and was enlisted in or assigned to a reserve component prior to January 1, 1977, and as a result of such enlistment or assignment served on active duty for a period of more than 180 days, any part of which commenced within 12 months after January 1, 1977, and was discharged or released from such active duty under conditions other than dishonorable; or

(C) was discharged or released from active duty, any part of which was performed after January 31, 1955, and before January 1, 1977, or following entrance into active service from an enlistment provided for under clause (B) of this paragraph, because of a service-connected disability**[**.**]**; *or*

(D)(i) before January 1, 1977, commenced the third academic year as a cadet or midshipman at one of the service academies or the third academic year as a member of the Senior Reserve Officer Training Corps in a program of educational assistance under section 2104 or 2107 of title 10 if the individual (I) served on active duty for a period of more than 180 days pursuant to an appointment as a commissioned officer received upon graduation from one of the service academies or upon satisfactory completion of advanced training (as defined in section 2101 of title 10) as a member of the Senior Reserve Officers' Training Corps, respectively, and (II) was discharged or released from such period of active duty under conditions other than dishonorable, and (ii) before January 1, 1990, submits to the Secretary of Veterans Affairs, in such form and manner as such Secretary may prescribe, an irrevocable election to be eligible after the date of such election for assistance under this chapter and, if enrolled under the chapter 32 program of educational assistance under this title at the time of such election, to be disenrolled from such program at that time.

(2) The requirement of discharge or release, prescribed in paragraph (1) (A)[or (B)], *(B), or (D),* shall be waived in the case of any individual who served more than one hundred and eighty days in an active-duty status for so long as such individual continues on active duty without a break therein.

* * * * * * *

(4) For the purposes of this subsection, the term "service academies" means the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy.

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Subchapter II—Eligibility and Entitlement

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§ 1662. Time limitations for completing a program of education

Delimiting Period for Completion

(a)(1) [No] *Subject to paragraph (4) of this subsection, no* educational assistance shall be afforded an eligible veteran under this chapter beyond the date 10 years after the veteran's last discharge or release from active duty after January 31, 1955; except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of such mental or physical disability, or (C) October 1, 1980, whichever is the latest, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence,

that such veteran was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted a veteran under the preceding sentence, the delimiting period with respect to such veteran will again begin running on the first day following such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

* * * * * * *

(4) For purposes of paragraph (1) of this subsection, a veteran's last discharge or release from active duty shall not include any discharge or release from active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title.

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CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

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Subchapter IV—Payments to Eligible Persons

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§ 1732. Computation of educational assistance allowance

(a)(1) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be [computed at the rate prescribed in section 1682(a)(1) of this title for full-time, three-quarter-time, or half-time pursuit, as appropriate, of an institutional program by an eligible veteran with no dependents] *paid at the monthly rate of $395 for full-time, $296 for three-quarter-time, or $197 for half-time pursuit.*

(2) The educational assistance allowance on behalf of an eligible person pursuing a program of education [on less than a half-time basis shall be computed at the rate prescribed in section 1682(b)(2) of this title for less-than-half-time pursuit of an institutional propram by an eligible veteran] *consisting of institutional courses on a basis other than as described in paragraph (1) of this subsection shall be the lesser of—*

(A) $197 per month for less than half-time but more than quarter-time pursuit or $99 per month for quarter-time pursuit, as applicable, or

(B) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay.

(b) The educational assistance allowance to be paid on behalf of an eligible person who is pursuing a full-time program of education

which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion, shall be computed at the rate of [$304] *$319* per month.

(c)(1) * * *

(2) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a farm cooperative program under this chapter shall be [computed at the rate prescribed in section 1682(c)(2) of this title for full-time, three-quarter-time, or half-time pursuit, as appropriate, of a farm cooperative program by an eligible veteran with no dependents] *$319 for full-time, $239 for three-quarter-time, and $160 for half-time pursuit.*

[(3) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing an independent study program which leads to a standard college degree shall be computed at the rate prescribed in section 1682(e) of this title.]

(3) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (a)(2) of this section for less than half-time but more than quarter-time pursuit. If the entire training is to be pursued by independent study, the amount of the eligible person's entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which such person is pursuing the independent study program but at not more than the rate at which such entitlement is charged for pursuit of such program on less than a half-time basis. In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the Secretary of Veterans Affairs, for resident training. An eligible person's entitlement shall be charged for a combination of independent study and resident training on the basis of the Applicable monthly training time rate as determined under section 1788 of this title.

(4) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a course in part by open circuit television shall be computed in the same manner that such allowance is computed under [section 1682(e) of this title] *paragraph (3) of this subsection* for an independent study program.

* * * * * * *

(e) In the case of an eligible person who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony, the educational assistance allowance shall be paid in the same manner prescribed in section 1682(g) of this title for incarcerated veterans, *except that the references therein to the monthly educational assistance allowance prescribed for a veteran with no dependents shall be*

deemed to refer to the applicable allowance payable to an eligible person under corresponding provisions of this chapter or chapter 36 of this title, as determined by the Secretary of Veterans Affairs.

§ 1733. Special assistance for the educationally disadvantaged

(a)(1) Any eligible person shall be entitled to the [benefits provided an eligible veteran (with no dependents) under section 1691 (if pursued in a State) of this title] *assistance provided an eligible veteran under section 1691(a) (if pursued in a State) of this title and be paid an educational assistance allowance therefor in the manner prescribed by section 1691(b) of this title, except that the corresponding rate provisions of this chapter shall apply, as determined by the Secretary of Veterans Affairs, to such pursuit by an eligible person.*

* * * * * * *

§ 1734. Apprenticeship or other on-job training; correspondence courses

(a) * * *

(b) Any eligible spouse or surviving spouse shall be entitled to pursue a program of education exclusively by correspondence and be paid an educational assistance allowance as provided in section [1786 of this title] *1786 (other than subsection (a)(2)) of this title and the period of such spouse's entitlement shall be charged with one month for each $395 which is paid to the spouse as an educational assistance allowance for such course.*

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Subchapter V—Special Restorative Training

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§ 1712. Special training allowance

(a) While the eligible person is enrolled in the pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on behalf of such person a special training allowance computed at the basic rate of [$376] *$395* per month. If the charges for tuition and fees applicable to any such course are more than [$119] *$125* per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed [$119] *$125* a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each [$12.58] *$13.17* that the special training allowance paid exceeds the basic monthly allowance.

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CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

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Subchapter I—State Approving Agencies

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§ 1774. Reimbursement of expenses

(a)(1) * * *

(2)(A) The Administrator shall, effective at the beginning of fiscal year 1988, make payments to State and local agencies, out of amounts available for the payment of readjustment benefits, for the reasonable and necessary expenses of salary and travel incurred by employees of such agencies in carrying out contracts or agreements entered into under this [section and for] *section, for reasonable and necessary expenses incurred in carrying out activities in connection with section 1774A of the title, and for* the allowance for administrative expenses described in subsection (b).

* * * * * * *

(C) Subject to paragraph (4) of this subsection, the amount of any such payment made to an agency for any period shall be equal to the amount of the reasonable and necessary expenses of salary and travel certified by such agency for such period in accordance with paragraph (3) of this subsection plus the allowance for administrative expenses described in subsection (b) *and the amount of reasonable and necessary expenses incurred in carrying out activities in connection with section 1774A of this title for such period.*

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Subchapter II—Miscellaneous Provisions

§ 1781. Limitations on educational assistance

(a) * * *

(b) No person may receve benefits concurrently under two or more of the provisions of law listed below:

(1) Chapter 30, 31, 32, 34, 35, and 36 of this title.

(2) Chapters 106 and 107 of title 10.

(3) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96–342, 10 U.S.C. 2141 note.)

(4) The Hostage Relief Act of 1980 (Public Law 96–449, 5 U.S.C. 5561 note.)

(5) The Omnibus Diplomatic Security and Anti-terrorism Act of 1986 (Public Law 99–399).

* * * * * * *

§ 1787. Apprenticeship or other on-job training

(a) * * *

(b)(1) * * *

(2) The monthly training assistance allowance of an eligible person pursuing a program described under subsection (a) shall be [computed at the rate prescribed in paragraph (1) of this subsection for an eligible veteran with no dependents pursuing such a course] *$288 for the first six months, $215 for the second six months, $143 for the third six months, and $71 for the fourth and any succeeding six-month periods of training.*

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§ 1795. Limitation on period of assistance under two or more programs

(a) The aggregate period for which any person may receive assistance under two or more of the provisions of law listed below may not exceed 48 months (or the part-time equivalent thereof):

(1) * * *

* * * * * * *

(8) The Omnibus Diplomatic Security and Anti-terrorism Act of 1986 (Public Law 99-399).

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TITLE 10, UNITED STATES CODE

Subtitle A—General Military Law

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PART III—TRAINING

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CHAPTER 106—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

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§ 2131. Educational assistance program: establishment; amount

(a) To encourage membership in units of the Selected Reserve of the Ready Reserve, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Transportation, under regulations prescribed by the Secretary with respect to the Coast Guard when it is not operating as a service in the Navy, shall establish and maintain a program to provide educational assistance to members of the Selected Reserve of the Ready Reserve of the armed forces under the jurisdiction of the Secretary concerned who agree to remain members of the Selected Reserve for a period of not less than six years.

(b) [Each] *Except as provided in subsections (d) through (f), each* educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned, *through the Secretary of Veterans Affairs,* to each person entitled to educational assistance under this chapter who is pursuing a program of education [and educational] *of an educational* assistance allowance at the following rates:

(1) $140 per month for each month of full-time pursuit of a program of education;

(2) $105 per month for each month of three-quarter-time pursuit of a program of education;

(3) $70 per month for each month of half-time pursuit of a program of education; and

(4) an appropriately reduced rate, as determined under regulations which the Administrator of Veterans' Affairs shall prescribe, for each month of less than half-time pursuit of a program of education, except that no payment may be made to a person for less than half-time pursuit if tuition assistance is otherwise available to the person for such pursuit from the military department concerned.

[(c)(1) Educational assistance may only be provided under this chapter for pursuit of a program of education at an institution of higher learning and may not be provided to a person after the person has completed a course of instruction required for the award of a baccalaureate degree or the equivalent evidence of completion of study.]

(c)(1) Educational assistance may only be provided under this chapter for pursuit of a program of education that is an approved program of education for purposes of chapter 30 of title 38.

(2) Subject to section 1795 of title 38, the maximum number of months of educational assistance that may be provided to any person under this chapter is 36 (or the equivalent thereof in part-time educational assistance).

(d)(1) Except as provided in paragraph (2), the amount of the monthly educational assistance allowance payable to an individual pursuing a full-time program of apprenticeship or other on-the-job training under this chapter is—

(A) for each of the first six months of the individual's pursuit of such program, 75 percent of the monthly educational assistance allowance otherwise payable to such individual under this chapter;

(B) for each of the second six months of the individual's pursuit of such program, 55 percent of such monthly educational assistance allowance; and

(C) for each of the months following the first 12 months of the individual's pursuit of such program, 35 percent of such monthly educational assistance allowance.

(2) In any month in which any individual pursuing a program of education consisting of a program of apprenticeship or other on-the-job training fails to complete 120 hours of training, the amount of the monthly educational assistance allowance payable under this chapter to the individual shall be limited to the same proportion of the applicable full-time rate as the number of hours worked during such month, rounded to the nearest 8 hours, bears to 120 hours.

(3)(A) Except as provided in subparagraph (B) of this paragraph, for each month that such an individual is paid a monthly educational assistance allowance under this chapter, the individual's entitlement under this chapter shall be charged at the rate of—

(i) 75 percent of a month in the case of payments made in accordance with paragraph (1)(A) of this subsection;

(ii) 55 percent of a month in the case of payments made in accordance with paragraph (1)(B) of this subsection; and

(iii) 35 percent of a month in the case of payments made in accordance with paragraph (1)(C) of this subsection.

(B) Any such charge to the entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2) of this subsection.

(e)(1) The amount of the monthly educational assistance allowance payable to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such individual under this chapter.

(2) For each month that an individual is paid a monthly educational assistance allowance for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate of 80 percent of a month.

(f)(1)(A) The amount of the educational assistance allowance payable under this chapter to an individual who enters into an agreement to pursue, and is pursuing, a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such individual.

(B) For purposes of subparagraph (A) of paragraph (1) of this subsection, the term "established charge" means the lesser of—

(i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

(ii) the actual charge to the individual for such course or courses.

(C) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

(2) In each case in which the amount of educational assistance is determined under paragraph (1) of this subsection, the period of entitlement of the individual concerned shall be charged with one month for each $140 which is paid to the individual as an educational assistance allowance.

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§ 2136. Administration of program

(a) Educational assistance under this chapter shall be provided through the Veterans' Administration, under agreements to be entered into by the Secretary of Defense, and by the Secretary of Transportation, with the Administrator of Veterans' Affairs. Such agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Veterans' Administration for the making of payments under this chapter.

(b) **[**Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of chapter 34 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1780(a)(5), 1780(b), 1786, 1787(b)(1), and 1792) shall be applicable to the provision of educational assistance under this chapter.**]** *Except as otherwise provided in this chapter, the provisions of sections 1434(b), 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1780(c), 1780(g), 1786(a), 1787, and 1792) shall be applicable to the provision of educational assistance under this chapter.* The term "eligible veteran"**[**, as used**]** *and the*

term "an individual", as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

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